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the relation of the parties and the solvency of the grantor did not constitute badges of fraud sufficient to relieve the grantor's creditors from the burden of proving that the conveyance was fraudulent, nor were the facts sufficient to show such fraud.

[Ed. Note.—For other cases, see *Fraudulent Conveyances*, Cent. Dig. §§ 330-332; Dec. Dig. § 102.* 6 Va.-W. Va. Enc. Dig. 572; 14 Va.-W. Va. Enc. Dig. 486; 15 Va.-W. Va. Enc. Dig. 436.]

Appeal from Circuit Court, Chesterfield County.

Suit by Baldwin & Brown and others against Winfree's administrator and others to set aside a deed to certain land as in fraud of creditors. From a decree dismissing the bill, complainants appeal. Affirmed.

John B. Welsh and *Haw & Haw*, all of Richmond, for appellants.

J. Kent Rawley, of Richmond, for appellees.

ASHBY *v.* ROLES et al.

March 12, 1914.

[81 S. E. 38.]

1. Deeds (§ 208*)—Execution—Delivery—Evidence.—Decedent for many years prior to his death having been alienated from his relatives, lived with defendant and her family in the same home where decedent was cared for and received considerate attention. Eight years prior to his death, he prepared a deed conveying to defendant all his property owned by him at that time, in consideration of maintenance and support by defendant during the grantor's life. After the deed had been signed and acknowledged, he, in person, delivered it into defendant's hands, who retained it until immediately after decedent's death, when she had it recorded. Held, that the fact that decedent and defendant resided in the same house did not warrant an inference that defendant may have abstracted the deed from the grantor's private papers and thus acquired possession, and that the facts showed sufficient delivery, notwithstanding decedent retained possession of the land and farmed and dealt with it as his own during his life time.

[Ed. Note.—For other cases, see *Deeds*, Cent. Dig. §§ 625-632; Dec. Dig. § 208.* 4 Va.-W. Va. Enc. Dig. 406; 14 Va.-W. Va. Enc. Dig. 319; 15 Va.-W. Va. Enc. Dig. 266.]

2. Deeds (§ 111*)—Bill of Sale—Construction—Property Conveyed.—Where decedent, in consideration of support eight years before his death, conveyed all the real and personal property owned by him at the time to defendant, the deed passed all the grantor's per-

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

sonal property which he then owned, but did not pass the bank balance standing in his name when he died, the result of an active account which he kept after the execution of the deed, in which he made deposits and against which he checked at pleasure.

[Ed. Note.—For other cases, see Deeds, Cent. Dig. §§ 309-315, 334, 335; Dec. Dig. § 111.* 4 Va.-W. Va. Enc. Dig. 327; 14 Va.-W. Va. Enc. Dig. 323; 15 Va.-W. Va. Enc. Dig. 270.]

Appeal from Circuit Court, Stafford County.

Action by R. T. Ashby, in his right and as administrator of George R. Ashby, deceased, against Katie Roles and others. Judgment for defendants, and plaintiff appeals. Reversed and remanded.

Alvin T. Embrey and *Wm. W. Butzner*, both of Fredericksburg, for appellant.

G. B. Wallace and *F. M. Chichester*, both of Fredericksburg, and *C. M. Chichester*, of Richmond, for appellees.

FIDELITY & DEPOSIT CO. OF MARYLAND *v.* GILL, County Treasurer, et al.

March 12, 1914.

[81 S. E. 39.]

1. Highways (§ 121*)—Highway Taxes—Levy and Assessment.—Under Acts 1879-80, c. 81, the board of commissioners of roads thereby created has exclusive jurisdiction and control of roads, and the levying of taxes for their maintenance, and the board of supervisors of Loudoun county has nothing to do with assessing, levying, or collecting road taxes in that county.

[Ed. Note.—For other cases, see Highways, Cent. Dig. § 379; Dec. Dig. § 121.* 12 Va.-W. Va. Enc. Dig. 930.]

2. Subrogation (§ 7*)—Sureties—Taxes—Misappropriation—Recovery.—Where a deputy sheriff, who was also deputy to the county treasurer, permitted the county treasurer to collect certain road taxes, which it was the deputy sheriff's duty to collect and account for to the sheriff, or to the board of commissioners of roads, and to apply the amounts collected in discharge of his arrearage to the treasurer for taxes previously collected and unaccounted for by him as deputy treasurer, the surety on the deputy sheriff's bond, which paid the amount of the misappropriation to the board of commissioners of roads, could not recover such amount from the board of supervisors of the county, which had no knowledge of the money diverted by the treasurer, where such money came from, or what

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.